

REFERENCE TITLE: child support; notice of lien

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1149

Introduced by
Senators Verschoor, Paton; Representative Ableser; Senators Gray L, Lopez,
Rios; Representative Barto

AN ACT

AMENDING SECTION 25-516, ARIZONA REVISED STATUTES; RELATING TO FAMILY SUPPORT DUTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 25-516, Arizona Revised Statutes, is amended to
3 read:

4 25-516. Lien; notice; priority; recording; reciprocity;
5 electronic notification

6 A. Notwithstanding section 25-514, in a title IV-D case if a person
7 obligated to pay child support is in arrears for an amount equal to at least
8 two months' child support, the unpaid amounts constitute a lien by operation
9 of law on all property presently owned and later acquired by the obligor.
10 The department may perfect a lien by filing a notice of lien with the county
11 recorder in the county in which the obligor has property or with a state
12 agency or a political subdivision of this state that files personal property
13 liens for recording on its official record. The notice of lien recorded
14 under this section shall specify the nature of the debt, the amount, and the
15 name and last known address of the obligor. A liquidated judgment is not
16 required to establish a lien. Recordation is constructive notice of the lien
17 to the creditors of the owner or subsequent purchasers, against the personal
18 or real property presently owned or later acquired. The lien has priority
19 over other liens against this property except for liens arising from
20 mortgages, deeds of trust, contracts, conveyances or security agreements
21 created by the property owner and previously recorded or filed.

22 B. The department shall notify an obligor who is at least two months
23 in arrears in making child support payments, periodic payments on a support
24 arrearage or periodic payments pursuant to a court order of support that a
25 notice of lien may be filed against the obligor. The department shall notify
26 the obligor by first class mail at the obligor's current address, or after a
27 reasonable attempt to ascertain the obligor's location, at the obligor's last
28 known address. The notice shall state the following:

29 1. The obligor is at least two months in arrears in making child
30 support payments.

31 2. The obligor may request in writing an administrative review to
32 contest the arrears pursuant to section 25-522.

33 3. The obligor may request in writing an administrative review within
34 fifteen days from the date of mailing of the notice.

35 4. If the obligor requests an administrative review, the department
36 shall stay further action until a determination has been made at the
37 administrative review.

38 5. If the obligor fails to respond to the notice, the department shall
39 file a notice of lien against the obligor.

40 6. The address and telephone number of the department.

41 7. The obligor may request a copy of the order.

42 C. If an obligor fails to respond to the notice within fifteen days
43 from the date of mailing, the department shall send the obligor a second
44 notice by first class mail. The second notice shall include the information
45 under subsection B of this section and shall state the following:

1 1. If the obligor fails to contact the department within fifteen days
2 from the date of mailing of the second notice, a notice of lien shall be
3 filed against the obligor.

4 2. This is the final notice the obligor will receive.

5 D. If the obligor requests an administrative review pursuant to this
6 section, the department shall determine whether to proceed with filing the
7 notice of lien based on whether the obligor is required to pay child support,
8 whether the obligor is in arrears, ~~—~~ and any other information relevant to the
9 case. The decision of the department shall be in writing, and the department
10 shall provide a copy to the obligor.

11 E. If the department determines that the obligor is at least two
12 months in arrears and determines at the administrative review to record a
13 notice of lien against the property of the obligor or if the obligor fails to
14 respond to the second notice, a notice of lien shall be recorded and a copy
15 sent to the obligor by ~~certified~~ FIRST CLASS mail to the obligor's last known
16 address.

17 F. The department ~~may~~, at any time, ~~MAY~~ release the property subject
18 to the lien from the lien. Notice by the department to the effect that the
19 property ~~had~~ HAS been released from the lien is conclusive evidence that the
20 property ~~had~~ HAS been released. If any lien imposed pursuant to this section
21 is satisfied and a notice of lien has been recorded, the department shall
22 issue a release of the lien to the obligor against whom the lien was claimed.
23 The department shall record the lien release in any county, agency or
24 political subdivision where the original lien was recorded.

25 G. This state shall give a lien recorded in another state full faith
26 and credit if the state agency, party or other entity seeking to enforce the
27 lien complies with the notice requirements of this section and records the
28 lien pursuant to the applicable laws of this state.

29 H. IF AN OBLIGOR HAS AGREED TO RECEIVE NOTICE FROM THE DEPARTMENT
30 ELECTRONICALLY, THE DEPARTMENT MAY SEND A NOTICE REQUIRED BY THIS SECTION TO
31 THE OBLIGOR ELECTRONICALLY RATHER THAN BY MAIL.